

LEXINGTON COUNTY



LANDSCAPE and OPEN SPACE ORDINANCE

December 13, 2016



Community Development

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Landscape and Open Space Ordinance Lexington County, South Carolina

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Article 1 – Authority

1.1 Authority and Jurisdiction

In accordance with the authority conferred by the 1994 “South Carolina Local Government Comprehensive Planning Enabling Act,” S.C. Code Sections 6-29-310 through 6-29-1200, the County of Lexington does hereby establish and enact the following Landscape and Open Space Ordinance for the unincorporated area of Lexington County, South Carolina.

1.2 Intent

The purpose of this Ordinance is to protect and enhance the character, appearance, and image of Lexington County through attractive and creative landscape design and open space; to ensure land-use compatibility through proper use of vegetation and open space as transition areas and screening; and to preserve scenic, canopied tree corridors while balancing the needs and demands of a quickly developing community.

1.3 Scope of Regulations

Except as otherwise stated, the regulations set forth herein shall apply to all Residential Attached dwelling units and Mobile Home Parks, as defined within the Lexington County Zoning Ordinance; all residential subdivisions, as defined and regulated within Article 3, Sections 1 and 4, and Article 4; and all nonresidential development within the unincorporated area of Lexington County, with the exception of the following development conditions/activities:

- a. Any public road construction or utility construction project, except as described in Article 3, Section 4 Service Areas/Utilities.
- b. Any agricultural operation, which includes the keeping, grazing, or feeding of agricultural animals for products and/or value increase and the raising of trees, vines, field, forage or other plant crops intended to provide food or fiber. However, processing areas/buildings, transport and warehousing, and retail or wholesale activities related to agricultural operations are not exempt from the terms of this Ordinance. Section 3.1.7 Clearcutting, further defines the exemptions allowed for timber harvesting.
- c. Advertising signs, as defined and regulated in the Lexington County Zoning Ordinance.
- d. Mail kiosks, unless located within an amenity area of a residential development.

- e. Temporary construction, grading, storage, parking and like activities which are necessary and incidental to the development of a principal activity.

Some of the residential activities, exempted above from the scope of these regulations, must follow the requirements of Article 3, Section 7, Scenic Corridor Protection.

Temporary activities that offer seasonal or holiday products that occur for a period of time exceeding 90 calendar days will be required to comply with applicable street frontage tree requirements included in Article 3, Section 6, Road Frontage Trees and Article 3, Section 7, Scenic Corridor Protection.

1.3.1 New Activities

Upon the effective date of this Ordinance, any building, structure, or tract of land shall be used, constructed, or developed only in accordance with the applicable regulations contained herein.

A landscape permit shall be effective for two years from the date of the approval. Five one-year extensions of the landscape permit will be granted provided the obligations of the permit continue to be met, and provided there have been no amendments to these regulations that prohibit approval.

1.3.2 Existing Activities

Any activity legally established prior to the effective date of this Ordinance which does not comply with its regulations shall be subject to the Nonconforming Use provisions of Article 5.

1.3.3 Existing Permits

Building permits or zoning permits lawfully issued before the effective date of this Ordinance or subsequent amendments shall remain in effect for as long as provided by the Lexington County Building Code and the Lexington County Zoning Ordinance. Landscape permits lawfully issued before the effective date of amendments to this Ordinance shall remain in effect as long as provided for in Section 1.3.1.

1.4 Establishment of Districts

1.4.1 Road and District Classifications

In order to implement the provisions of this Ordinance, the following road classification and districts are hereby established:

LU – Land Use District (See Article 3, Section 2)

PL – Parking Lot District (See Article 3, Section 3)

SA – Service Areas/Utilities District (See Article 3, Section 4)

BD – Building Design District (See Article 3, Section 5)

RC – Road Corridor District (See Article 3, Section 6)

OS – Open Space District (See Article 4)

Scenic Corridor – Those roads designated as Scenic Corridors will carry the extension S1, /S2, or /S3 after their road classification as created by the Zoning Ordinance (e.g., A/S1, C/S1, or L/S1).

1.4.2 Landscape and Open Space Maps

The Landscape and Open Space Maps will show the portions of the County within which each of the provisions applies.

1.5 Incorporation of Maps

The location and boundaries of Scenic Corridors and of Landscape and Open Space Districts established to implement the provisions of this Ordinance are shown on the Landscape and Open Space Maps, which are hereby incorporated into the provisions of this Ordinance. These maps in their entirety, including all map amendments, shall be as much a part of this Ordinance as if fully set forth and described herein.

1.6 Exclusions

In the interest of meeting the public need for services in an efficient and timely manner, and because such activities are developed with the benefit of public hearings and other public input, any facility or activity established or expanded and/or owned and operated by Lexington County is exempt from the administrative procedures found in Article 6 of this Ordinance. However, the development and operation of such activities shall meet all of the requirements of this Ordinance with the authority to vary from any of those provisions residing with the Lexington County Board of Zoning Appeals.

Article 2 – Definitions

2.1 Interpretation

This Ordinance shall be interpreted according to its literal terms. Words shall be construed as defined in a standard dictionary and syntax shall be understood according to conventional rules. Final interpretation shall be by the Landscape Administrator. Any appeal of that interpretation may be made to the Lexington County Board of Zoning Appeals.

Unless the context requires otherwise:

- a. The present tense of verbs shall include the future tense;
- b. The masculine gender shall include the feminine;
- c. The singular shall include the plural, and the plural shall include the singular; and,
- d. The word “shall” denotes a mandatory requirement; the word “may” denotes permission.

2.2 Definitions

The following terms shall have the following definitions:

Activity – The performance of a function or operation which constitutes the use of the land; specific activities referred to in the Landscape and Open Space Ordinance shall be considered as defined in the Zoning Ordinance for the County of Lexington.

Arterial, Collector, or Local Roads – Any roads bearing these road classifications as defined in the Lexington County Zoning Ordinance and shown on the Zoning Maps.

Berm – A hill or slope (man-made or natural) which represents a change in elevation and serves as a screening tool.

Bioretention Pond – A structure that utilizes soils and woody and herbaceous plants to remove pollutants from stormwater runoff.

Building Area – That portion of a structure that is defined by the “footprint” and/or total square footage.

Caliper – The diameter of nursery stock, taken at 6 inches above ground for up to and including 4-inch caliper size and 12 inches above ground for larger sizes.

Critical Root Zone – A protection zone measured as 1 foot in radius around a tree for every 1 inch in diameter (D.B.H.) of the tree.

Diameter Breast Height (D.B.H.) – The accepted measurements of established trees in the ground is their diameter at breast height, measured at 4 ½ feet above grade. To obtain the D.B.H., measure the circumference of the tree in inches and divide by 3.14 (pi).

Groomed Condition – A manicured, adorned, prepared, or otherwise formally landscaped setting; not in a natural state.

Invasive Exotic Species – Any plant species that is not native to the continental United States or North America, which naturally reproduces and creates a threat to the native ecosystem or natural environment.

Landscape Administrator – The County official assigned to administer, interpret, and enforce the Landscape and Open Space Ordinance.

Natural Condition – A native, indigenous, unpruned, unaltered setting, or planting.

Parking Lot – Any parcel of land, or portion thereof, which is used for parking, loading, or associated circulation, whether paved or unpaved.

Planting Island – An impervious area containing soil, usually placed within a surface parking lot, that is utilized for tree plantings and landscaping.

Privacy Fence – An opaque structure used to screen or block the view of an object or activity. Construction may consist of wood, vinyl, metal, or masonry block (i.e., brick).

Rain Sensor - An electronic device that detects and measures rainfall amounts and overrides the cycle of an irrigation system so as to turn off such system when a predetermined amount of rain has fallen.

Right-of-Way Plan – The plan adopted by the Lexington County Planning Commission which defines and designates the various categories of roads within Lexington County according to potential right-of-way needs.

Road Frontage – Area of land adjacent to a road right-of-way.

Screen, Screening – Any structure or vegetative stand, or combination of both, which is used for the purpose of blocking views, noise, and light or glare from neighboring properties and, where required, road rights-of-way. Total and partial screening is further defined in the Lexington County Zoning Ordinance.

Shrub – Any hard-wooded perennial plant of a species which normally reaches a height between 12 inches and 8 feet.

Stabilizing Vegetation – Any plant material which serves to prevent soil erosion by covering large areas of ground, and which does not grow beyond 12 inches in height. Also may be referred to as “ground cover.”

Transitional Area – Area of land, improved by landscaping and/or screening, designed to minimize the impact of high-intensity land uses on neighboring, lower-intensity uses.

Tree – Any hard-wooded perennial plant, whether coniferous or deciduous, of a species which normally reaches a height of 8 feet or more at maturity.

Tree, Canopy – Any single- or multi-stem tree of a species which normally reaches a height of 30 feet or more at maturity.

Tree, Understory – Any single- or multi-stem tree of a species which normally reaches a height of between 10 and 30 feet at maturity.

Trophy Tree – A tree of significance due to its size, relative to its species. See Appendix.

Underbrush – Naturally occurring vegetation and vines that are not necessarily shrubs or trees.

Vision Clearance Triangle – As described in the Lexington County Zoning Ordinance.

Article 3 – Landscaping Requirements

Section 1. General

Improving the aesthetics of thoroughfares and other public spaces contributes to the general welfare, prosperity, and pride of a community, while mitigating potential environmental damage and promoting harmonious activities.

The following landscape requirements are established in order to preserve and enhance existing vistas; provide shade; improve appearance; break up large expanses of impervious surfaces; improve ground water discharge; promote air purification and oxygen regeneration; and to promote adequate light, air, and open space for the citizens of Lexington County and its visitors.

It is the intent of this article to encourage creativity and good practice in design, as well as flexibility in the application of design standards, by placing emphasis on the use of a variety of elements and diverse planting groups to achieve the desired results.

3.1.1 Pre-Development Activity

- a. The appropriate land disturbance permit(s) must be obtained prior to the removal of any stumps, root systems, or stabilizing vegetation.
- b. Clearing and Landscape Plans may be required as part of the Landscape Review process. The plans must demonstrate how the developer will meet the requirements of the Ordinance as well as show various existing conditions. Clearing and Landscape plans will contain, at a minimum, the following information:
 1. Total acreage of parcel;
 2. Area to be developed;
 3. All trophy trees on the parcel;
 4. Proposed location of any structures;
 5. Proposed location of service areas, such as garbage collection; and,
 6. Proposed location of detention/retention ponds.
- c. Once necessary development approvals have been granted and permits obtained, and prior to the commencement of any clearing, grading, tree removal or construction on a site, the developer shall cause all protected trees to be marked with surveyor's flagging in a uniform manner that clearly identifies those trees to be retained. At the discretion of the Landscape Administrator, passive forms of marking may be used (i.e., continuous rope or flagging for areas which are remote from human activity or heavily wooded).

3.1.2 Planting and Maintenance

- a. To the greatest extent possible, the development plan should address the location of excavation for activities such as utilities to avoid root damage to trees being preserved or planted.
- b. There shall be no construction, paving, grading, trenching, digging, excavation, operation of equipment or vehicles, cement rinsing, chemical usage or storage of materials within the critical root zone of any tree being preserved.
- c. All newly planted trees and shrubs shall be mulched evenly around each individual plant and extend to the dripline, but no less than a 4-foot radius from the trunk of the tree or shrub. The mulch should be two to three inches in depth. Group plantings, including shrubbery, shall have a defined bed area that shall be mulched. Natural areas with groupings of trees that are preserved to meet provisions of this Ordinance do not require mulch; however, individual trees that are protected will require mulch. The mulched areas should be maintained and kept free of weeds and grass.
- d. New trees must be planted properly, to include soil/site preparation and protection of roots. See Appendix.
- e. New trees and preserved trees must be properly maintained. Any trees required by this Ordinance that die must be replaced within 45 days. The Landscape Administrator may extend this replanting period based on the climatic and planting conditions of the season, or other unusual conditions.
- f. Any vegetation or landscaping that is removed and which was required to meet provisions of this Ordinance must be replaced with equivalent species, sizes, and quantities of plant materials as determined by the Landscape Administrator.
- g. In order to promote water conservation, rain sensors are encouraged for all automatic irrigation systems, so that rainfall amounts in excess of one-half inch will prevent the irrigations system from turning on. The rain sensor should be located in an open area, above ground, and in an unobstructed location (manufacturer's specifications should be referenced) and monitored to ensure an adequate amount of water is distributed following rain events.

3.1.3 Species Selection

- a. The Landscape Administrator shall approve the number, type, size, and location of all trees required by the Ordinance. This shall be accomplished in a manner that ensures creativity and variety in design, height, texture, and color and that discourages single rows of identical plantings, with the exception of street trees along major road corridors which may have to be planted/retained in a single row. To the greatest extent possible, required landscaping shall replicate the surrounding natural conditions.

- b. Tree specimens proposed for planting shall be hardy for the particular soil and climate conditions they will encounter and located in such a manner as to encourage mature growth.
- c. The minimum required caliper of trees to be planted as required by this Ordinance shall be 10 feet tall and 2 inch caliper for canopy trees and 6 feet tall and 1 inch caliper for understory trees. The minimum size of shrubbery or other woody plant materials to be planted as required by this Ordinance shall be a minimum of 3 gallon sized container plants, unless the Landscape Administrator determines larger plants are needed to meet applicable provisions of this Ordinance.
- d. The thinning of understory trees and other vegetation within a development may be approved or required by the Landscape Administrator to encourage the healthy maturation of preferred trees.
- e. Except as otherwise provided for within this Ordinance, all trees identified as trophy trees shall be preserved. In the event that an existing trophy tree is removed, the Landscape Administrator shall require additional tree plantings equivalent to one new canopy tree per every 10 inches of D.B.H. of the trophy tree to be removed. The protection of other existing, quality trees may also be considered when determining trophy tree replacement requirements. Trophy trees removed without prior approval shall be replaced with an adequate number of canopy trees equivalent in inches to the D.B.H. of the trophy tree that was removed.
- f. To encourage diversity and flexibility of design, no more than 40 percent of any one species can be used for new tree and shrub plantings in the overall development plan. The Landscape Administrator may alter the diversity requirement in order to promote consistency of the planting design in the overall development plan.
- g. The Landscape Administrator shall approve all species used in the overall landscape plan. Trees that are considered severe or significant threat invasive exotic species by the Clemson University Cooperative Extension Service or United States Department of Agriculture shall not be used.

3.1.4 Location

- a. The provisions of this Ordinance are not intended to create a conflict with signs or entrances to any residential or nonresidential development. Proposed sign locations must be taken into consideration when determining tree planting locations and species to reduce potential conflict with sign visibility. All signs and entranceways should be designed and located in such a manner as to be enhanced by the landscaping requirements and existing vegetation. All locations of signs and driveways must meet the requirements of the Lexington County Zoning Ordinance.
- b. Trees, planted or raised islands, berms, shrubs and service areas shall be placed outside the vision clearance triangle at any intersection with a road right-of-way,

with the full mature size of the plant being taken into account. In addition, these features shall be located in such a manner as to not create a vision hazard for those citizens navigating internal travel lanes, driveways, and parking lots. Regular maintenance of these features to ensure a clear line of sight is required.

- c. The presence of underground or overhead utilities shall be taken into consideration when determining the type and placement of required trees.
- d. Landscaping shall not block or restrict access to fire department connections or fire hydrants.

3.1.5 Exceptions to Location Requirements

- a. In the event that the protection of a trophy tree substantially negates the development of a property or a trophy tree is located on a lot within the proposed building footprint or necessary infrastructure and no reasonable redesign to preserve the tree can be identified, the Landscape Administrator has the authority to allow the trophy tree to be removed. All such removals of trophy trees are subject to the mitigation requirements listed in Section 3.1.3 of this Ordinance.
- b. Within the development process, any tree that has been determined by the Landscape Administrator as being hazardous, in poor condition or health, an invasively exotic species, or otherwise deemed inappropriate for the site, to include trees identified as trophy trees, may be removed without penalty.

3.1.6 Planting Islands

All planting islands must be designed with a minimum 160 square feet of pervious area for each larger growing species of tree. The Landscape Administrator may allow a lesser impervious planting area for moderate or smaller growing tree species. Each tree in a planting island must be located in a manner where the tree is as far from any impervious area, to include curbing, as possible. In most instances, the tree plantings should be located in the direct center of a planting island, except for instances where multiple trees are planted within an island.

3.1.7 Clearcutting

Silviculture is the science of managing the establishment, growth, composition, and quality of forest vegetation for the full range of forest resource objectives, which often include wildlife, water, recreation, aesthetics, etc. Stands of trees and forests are sometimes managed purely for timber where clearcutting is often practiced to regenerate certain species that require sunlit conditions. Even in a silvicultural planned clearcut, virtually all trees may be removed to achieve the environment desired, including certain light and soil conditions.

Timber harvesting is recognized as a practice beneficial to individual property owners, and also to the local economy. However, trees are also recognized as playing a key role

in the quality of the economic and environmental future of the County. It is the intent of this section of this Ordinance to have a reasonable review of clearcutting, which exempts sustainable forest management activities while offering opportunities for the assessment of development activities in order to preserve that part of the vegetative environment that is essential to the quality of life of the general population.

a. Exemptions: Any forestry activity on forestland, that meets at least one of the following requirements as defined under Section 48-23-205 of the South Carolina Code of Laws, does not require a review by the Landscape Administrator:

- taxed on the basis of its present use value as forestland;
- managed in accordance with a forest management plan;
- certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm System, or any other nationally recognized forest certification system;
- subject to a legally binding conservation easement under which the owner limits the right to develop or subdivide the land; or
- managed and harvested in accordance with the best management practices established by the State Commission of Forestry.

For the purpose of this exemption, forestry activity includes, but is not limited to, timber harvesting; site preparation; controlled burning; tree planting; applications of fertilizers, herbicides, and pesticides; weed control; animal damage control; fire control; insect and disease control; forest road construction; and any other generally accepted forestry practices.

In order for Lexington County to help ensure that this exemption is respected by everyone, a simple notification by telephone, FAX, or e-mail of a proposed clearcut associated with sustainable forest management should be made to the Landscape Administrator. Failure to remember to inform the Landscape Administrator is not considered a violation of this Ordinance and notification is not expected for activities such as thinning; shelter wood, salvage, or seed tree cuts; or insect and disease control measures.

b. Clearcutting associated with development may occur only after the provisions of this Ordinance have been met for the proposed development. This would typically involve a developer submitting a plan to the Landscape Administrator for review and approval, either for himself or on behalf of the property owner. In forest management terms this is considered a development cut because it is considered the final harvest without plans for future sustainable forest management activities. If there is an unexpected need for the property owner to harvest timber and the intent is to develop the property or market the property for development, the harvest must be reviewed by the Landscape Administrator to ensure there is no loss of essential water quality protection, beneficial trophy tree preservation, or vegetation along

designated Scenic Corridors. This review is not intended to prevent equitable financial gain to the property owner, but to ensure the activity does not cause irreplaceable damage to the long-term benefits to the County or the property owner.

The following notes are not part of this Ordinance but are inserted here to help explain the previous section:

Water quality protection: The stormwater runoff after “clearcutting associated with future development” must meet the water quality requirements of Lexington County. Since the water quality protections for the stormwater runoff from an undeveloped tract of land is generally not as rigid as the protection needed for developed property, preserving larger riparian buffers may not be required as a part of the *Best Management Practices for Forestry (BMPs)*; but should be considered as a way to enhance the value of the property for future development. This would especially be true if the lack of adequate riparian buffers causes future development to construct more expensive alternate methods to achieve required water quality protection. Therefore, following BMPs as established and amended by the South Carolina Forestry Commission will be considered sufficient for timber harvesting, but may not be sufficient for the future development of the property.

Trophy tree preservation: This requirement involves identifying irreplaceable groupings of trophy trees that can easily be included in future development plans as value-added amenities. It is not the intent of this Ordinance to require the preservation of every trophy tree on a piece of property or to imprudently leave isolated trophy trees that are not good candidates for long-term survival. The Appendix of this Ordinance contains the criteria for trophy trees, including a list of those trees that are not considered worthy of protection regardless of size.

Section 2. Land Use Compatibility

To meet the demands of the consumer in both the residential and nonresidential marketplace, there are often land uses located adjacent to or in the proximity of one another that are not necessarily compatible. The following requirements are set forth both to address privacy and aesthetic considerations, as well as minimize the effects of differing or incompatible land uses through the use of vegetated transition areas, screening, and noise control. Design considerations will include the visibility between such uses, existing topography, and existing natural elements. The design review process will encourage creative site design, building design, and building arrangement.

3.2.1 Application

- a. This section shall apply where there is a buffer and/or screening requirement of the Lexington County Zoning Ordinance.
- b. No improvements required by this section may encroach upon a public or private road right-of-way.

3.2.2 Pre-Development Activity

There shall be no clear-cutting or other removal of vegetation within any buffer required by the Lexington County Zoning Ordinance, without the submittal and approval of a clearing plan by the Landscape Administrator.

3.2.3 Clearing Plan

Clearing plans submitted for development involving a buffer shall include the following, in addition to the general plan requirements:

- a. Location of buffer as required by the Zoning Ordinance;
- b. Location of screening as required by the Zoning Ordinance;
- c. Location and identification of all existing naturally vegetated and/or forested areas to be protected and the location and identification of any proposed clearing of such areas; and,
- d. Location and identification of all trophy trees.

3.2.4 Preservation Within Buffers

- a. Except as otherwise provided for in this Ordinance, there shall be no removal of canopy trees, understory trees, or underbrush within the buffer.
- b. Where there is not sufficient existing vegetation, where topography requires encroachment into the buffer during the development process, or where existing vegetation within a buffer must be removed to meet other development standards,

vegetation shall be planted or re-planted within the buffer at a minimum average density of one group for every 35 feet, or portion thereof, of buffer area. Areas that have the potential to re-vegetate naturally may be considered by the Landscape Administrator.

- c. Groupings of material shall be any approved combination of the following:
 - One large canopy tree and three understory trees
 - One large canopy tree and three large evergreen shrubs
 - Vegetation installed to meet screening requirements as regulated in the Lexington County Zoning Ordinance
 - Equivalent combination of canopy trees, understory trees, and shrubbery as approved by the Landscape Administrator
- d. In all cases, preservation and planting of underbrush, understory trees, and canopy trees that are appropriate for the setting is encouraged. The preservation or planting of undesirable underbrush, understory trees, and canopy trees is discouraged.

3.2.5 Screening

- a. The use of vegetation for screening is strongly encouraged. However, where a wall, fence or berm is proposed or being used to satisfy the screening requirements of the Lexington County Zoning Ordinance, at least 50 percent of the line of screening must be vegetation in front of or in place of the wall, fence, or berm to soften the effect. The vegetation must be placed on the protected property line side of the structure.
- b. Whether installed to meet the screening requirements of the Zoning Ordinance or not, all walls, privacy-type fences, or berms visible from the road and less than 500 feet from the road right-of-way shall also have vegetation in front of at least 50 percent of the structure unless otherwise stated within this Ordinance.
- c. Access and room for maintenance must be incorporated into the design and placement of the structure and subsequent vegetation.

Section 3. Parking Lots

Parking lots are a natural product of most land uses. The intent of this section is not to fully screen or hide them from view, but to enhance their appearance, break up vast flat visual expanses, provide shade, promote air circulation, and reduce stormwater runoff.

3.3.1 Design Requirements

- a. A parking lot design plan shall be included in the landscaping plan submitted to the Landscape Administrator as part of the review process.
- b. Parking spaces that are adjacent to a sidewalk, pedestrian/bike path, or road right-of-way shall be designed such that there is some natural or other element to prevent the bumpers, fenders, or doors of vehicles from intruding into the path of pedestrian or vehicular traffic outside the parking space.
- c. All parking lots shall adhere to the minimum space requirements of the Lexington County Zoning Ordinance and the minimum accessible space requirements of the Lexington County Building Code.
- d. Surface parking areas, including lots for storage and/or display, visible from an existing or proposed public or private street right-of-way and adjoining properties shall be landscaped with evergreen plant material that can be maintained at two to four feet in height. This landscaping shall extend the length of the parking area and may be incorporated with required street trees, parking lot trees, buffer plantings, and vegetative screening.

3.3.2 Islands

- a. Parking lots that are designed with planted or raised islands shall include an obvious means of pedestrian egress through or between islands at reasonable intervals.
- b. Parking lots that are designed with planted or raised islands shall design the location of the islands so as to not interfere with the opening of car doors in adjacent spaces.

3.3.3 Trees

- a. All developments with greater than eight surface spaces of parking area and associated circulation must include the use of large canopy trees throughout the parking area. In no case shall a parking space be greater than 50 feet from the trunk of a tree. Trees shall be provided at a minimum average density of one tree per every eight spaces, or portion thereof.

- b. Where overhead utilities exist or are planned, or where space restricts the use of canopy trees, understory trees may be required instead of large canopy trees, at a replacement density of two understory trees for each canopy tree.
- c. The requirements of this section shall apply only to the perimeter of a parking lot greater than 10,000 square feet that is used as a display/storage area for nonresidential development (i.e., automotive, boat and craft dealerships; truck terminals; vehicle and craft storage lots; etc.). Tree plantings are required at an average spacing of one canopy tree, two understory trees, or an equivalent combination of both, every 35 feet around the perimeter of such display/storage areas. The permit applicant may choose to follow requirements “a” of this section on the interior portion of such display/storage areas.

Section 4. Service Areas/Utilities

This section is intended to safeguard the public from the dangers of attractive nuisances, improve community appearance, and minimize noise associated with the operation of service areas and maintenance of utilities while recognizing the necessity of service areas for public health, welfare, and personal conveniences.

3.4.1 Application

- a. The requirements of this section shall apply to all service areas, equipment, and structures related to garbage collection, utilities and communication, as well as all detention and retention ponds, or other similar stormwater holding areas, to include those in residential subdivisions. Water towers are exempt from provisions of this section of the Ordinance; however, these activities must conform to all other provisions of the Ordinance. Communications towers are regulated within these requirements, but shall also comply with section 3.7.5 of this Ordinance. Electrical substations shall be regulated by provision of this section of the Ordinance, only.
- b. This section shall not be construed to deny access by vehicles and equipment to service areas or for maintenance of detention and retention ponds.

3.4.2 Service Areas and Utilities

- a. Service areas and equipment/structures related to utilities and communication (i.e., voice, data, or visual) must be screened from view from public rights-of-way and adjoining property. Privacy structures may be used exclusively to meet this requirement if the location of the activity warrants special consideration due to spacing, utilities, safety, etc.; however, the use of vegetation in conjunction with the privacy fencing is strongly encouraged, where practical. Architecturally designed structures or buildings housing service equipment may be considered in lieu of screening.
- b. All garbage collection sites and containers, outdoor waste or refuse storage areas, and recyclable collection areas shall be shielded on all sides by screening that is 100 percent opaque and at least 1 foot higher than the item. One side may remain open to accommodate receptacle pick-up, provided the open side is positioned to have the least visible impact on surrounding properties and roads. If the required screening is not visible from the road right-of-way or adjoining properties, the additional landscaping in section 3.4.4 may not be required. Recycling centers, as defined within the Lexington County Zoning Ordinance, do not require screening for individual containers. Nothing in this provision implies or allows non-compliance with the maximum permitted noise levels as found in the Lexington County Zoning Ordinance.

- c. Non-power utility fixtures, substations, and exposed metal cabinets greater than 5 feet in height shall be screened from view from any private or public street and from adjoining property to the extent practicable after consideration of proper equipment operation, code compliance, security, access, and maintenance. The Landscape Administrator has the authority to allow privacy structures to be used exclusively to meet this requirement if the activity location warrants special consideration; however, the use of vegetation in conjunction with the privacy fencing is strongly encouraged, where practicable.

3.4.3 Detention/Retention Ponds

- a. Detention and retention ponds, or other holding areas that are part of a storm/surface water system, should be enhanced as an amenity of the development.
- b. Unless designed as an integral part of a landscape plan or features as an amenity (i.e., water features in a wet bottom basin or recreation/open space in a dry bottom basin), all detention ponds, retention ponds, or other similar holding areas shall be screened from view from any existing or future private or public street not located within or associated with the development. Buffer areas required by the Lexington County Zoning Ordinance shall be preserved and/or re-vegetated, as listed in Section 3.2.4, between protected properties and all stormwater holding ponds.
- c. Bioretention systems will be considered to have met the additional landscape requirements noted in this section of the Ordinance.
- d. The development of any system shall be in accordance with the provisions of the Lexington County Stormwater Management Ordinance, to include the requirement of fencing for safety purposes. Required landscaping may not be placed within a stormwater management basin, on the dam/slopes of a stormwater management basin, within any designated drainage channel, or within parcels of land to be dedicated to Lexington County, unless approved by Lexington County Public Works.

3.4.4 Screening

The use of vegetation for screening is strongly encouraged; however, if fencing or a wall is used for screening of service areas, utilities, or stormwater ponds, at least 50 percent of the structure shall be softened with shrubbery or other vegetation, unless otherwise stated within this section of the Ordinance. The vegetation must be placed on the outside property line of the structure. Access and room for maintenance must be incorporated into the design and placement of the structure and subsequent vegetation. The substance of the fencing, wall, or other screening structure must be approved by the Landscape Administrator. Vegetation utilized for screening should provide adequate screening within three growing seasons following planting.

Section 5. Building Design

Landscape features are typically used to visually improve large expanses of concrete or other building materials, mask blandness and blank walls, and compensate for a lack of architectural elements. This section recognizes that good building design and placement can also accomplish this, thus turning landscape features into a frame or enhancement of the building.

3.5.1 Application

- a. Nonresidential and Residential Attached (three or more dwelling units) activities, as described in the Lexington County Zoning Ordinance, shall have all facades visible from the road and less than 500 feet from the right-of-way designed or landscaped in accordance with this section.
- b. Where it is determined by the Landscape Administrator that a building is designed to have all visible facades architecturally enhanced (coining, window treatments, lighting features, etc.), landscaping may not be a requirement.

3.5.2 Design Elements

- a. Developments whose buildings include unadorned, blank walls that are greater than 100 feet in length shall include a landscape enhancement plan to screen these walls as part of the development review process.
- b. Acceptable architectural elements in lieu of landscaping should relate to surrounding building materials and scale.
- c. Landscape elements should be of varying heights, textures, and number. They should be spaced intermittently along the designated wall and should not produce the visual effect of a straight hedge.
- d. Landscape design is not intended to hide signage or entrances, rather to frame, enhance, and invite. Signs and driveways should be located in such a manner as to not be obstructed by landscaping or architectural features.

Section 6. Road Corridors

It is recognized that a number of thoroughfares in Lexington County have lost their natural canopies and scenic qualities due to development and road widening projects. It is important then, to the greatest extent practical, that trees in public spaces along the main byways through the community be preserved or reestablished.

3.6.1 Identification of Road Corridors

Any road identified as an Arterial, Collector, or Local Road by the Lexington County Zoning Ordinance shall be considered a road corridor. When the road, and/or its right-of-way, is located within the boundaries of a municipality, the provisions of this section shall still apply if the parcel is located in the unincorporated portion of Lexington County. The provisions of this section shall also apply to portions of properties that have frontage along interstate highways. Where any road corridor or portion thereof is also identified as a scenic corridor, the requirements of Section 7 Scenic Corridor Protection shall prevail.

3.6.2 Pre-Development Activity

Recognizing that in some instances lot-clearing and replanting may be the most cost-effective method of development, and that some existing trees are not suitable or desirable as street-frontage trees, developers are encouraged to identify those trees along road corridors that may be preserved during the clearing and development process. The Landscape Administrator may approve preservation of trees in lieu of or in combination with specific re-planting efforts.

3.6.3 Trees

- a. Street frontage trees shall average at least one tree per 35 feet of frontage.
- b. Where there are not sufficient existing street frontage trees at development sites on road corridors, the Landscape Administrator shall require the addition of canopy or understory trees, or a combination of the two, in order to enhance the streetscape and public space created by development along road frontage.
- c. Street frontage trees required to be planted shall be setback at least 10 feet, but not greater than 20 feet, from the existing or potential future road right-of-way.
- d. Where overhead utilities exist or are planned, or where space restricts the use of canopy trees, understory trees shall be required instead of large canopy trees, at a replacement density of two understory trees for each canopy tree.
- e. The location of signs and driveways as part of the development shall take into account the required addition of trees. Signs and landscaping shall be designed and placed in a manner to reduce any potential conflicts with visibility and obstruction.

Section 7. Scenic Corridor Protection

Certain roads in the County, or portions thereof, shall be established for preservation because of their unique character, to include the existence of long-standing natural tree canopies. These scenic roads have an important role in environmental quality, sense of community and history, and economic development. The following provisions are established in order to preserve and protect the natural vistas of certain thoroughfares and byways within the County. Development along these corridors shall be designed with the principal purpose of accommodating and preserving existing tree canopies, to the greatest extent possible. The intent of this Ordinance is not to prohibit extensive development along these corridors, but to retain the unique character in the process of development.

3.7.1 Identification of Scenic Corridors

Criteria for identifying scenic road corridors under this section shall be established by the Lexington County Planning Commission and approved by Lexington County Council. Criteria may include, but not be limited to, the presence of extremely significant tree canopy or cover. It will be permissible to establish more than one category of scenic corridor designations.

The Landscape and Open Space Maps identifying roads or sections of roads in the unincorporated area of Lexington County that meet the established criteria will be recommended by the Planning Commission and approved by County Council.

Scenic corridors may be removed from or added to the map upon a recommendation of the Planning Commission and approval of County Council. A list of these corridors will be maintained in the Appendix of this Ordinance.

3.7.2 Scope of Regulations

This section shall apply to activities as outlined in Section 1.3. Additionally, the following residential activities shall also be required to follow the restrictions in this section on Scenic Corridor Protection:

- a. Residential subdivisions that have lots developed with frontage on a scenic corridor. The requirements of this section shall not apply if the portion of the lot that fronts the road is the front yard of the residence.
- b. Developments that contain Residential Attached (two dwelling units) activities.
- c. Mobile Home Parks.

3.7.3 Pre-Development Activity

There shall be no clear-cutting, timbering, or other removal of canopy trees, understory trees, or underbrush within 50 feet of any existing right-of-way along a scenic corridor without the submission of a clearing plan for approval by the Landscape Administrator.

Designated scenic corridors that are cleared without approval must be re-vegetated in a manner similar to the density and species of other naturally forested portions of surrounding scenic corridor buffers. Larger tree planting sizes, not to exceed 6-inch caliper, may be required for such re-vegetation plans. The re-vegetation plan shall not include more than 10 percent of non-native species.

3.7.4 Clearing Plan

Clearing plans submitted for activities along scenic corridors shall include the following, in addition to the general plan requirements:

- a. Location and identification of all canopy trees with a D.B.H. of 8 inches or greater, and all understory trees with a D.B.H. of 4 inches or greater.
- b. Location and identification of all trophy trees.

3.7.5 Preservation Requirements

Scenic Corridor 1

- a. Except as otherwise provided for in this Ordinance, there shall be no removal of canopy and understory trees within the first 25 feet along a Scenic Corridor 1. The only development allowed within the first 25 feet behind the road right-of-way shall be a sign, landscaping, necessary utilities (i.e., electrical, water, sewer, communications), and driveway access, including necessary clearing to obtain sight distance and vision clearance, regardless of any buffering requirements of the Lexington County Zoning Ordinance. Utility access shall be designed to provide the least intensive impacts on the existing scenic corridor vegetation and should utilize existing rights-of-way and easements, where feasible.
- b. Except as otherwise provided for in this Ordinance, all canopy trees with a D.B.H. of 8 inches or greater, and all understory trees with a D.B.H. of 4 inches or greater, shall be preserved within the area 26 to 50 feet deep along a scenic corridor.
- c. Parking, groomed conditions, landscaping, necessary utilities (i.e., electrical, water, sewer, communications), stormwater management features, and natural conditions may be utilized within the area 26 to 50 feet deep along a Scenic Corridor 1 to augment the preserved trees.
- d. Where the imposition of a 50-foot zone represents greater than 20 percent of the area of a parcel, as platted prior to the enactment date of this Ordinance, the

combined natural and landscaped zone may be reduced from 50 feet to 20 percent of the parcel area. This reduced area shall be proportionately shared between the natural conditions and other uses as described above.

- e. Where there is a significant break or gap in an existing tree canopy along an identified Scenic Corridor 1, the Landscape Administrator shall require that the first 25 feet be preserved in as natural a condition as possible with an opportunity for the area to re-vegetate naturally in a manner similar to other portions of the corridor. Where there are no substantial trees in this area, the Landscape Administrator may require street frontage trees (as required in Article 3, Section 6 Road Corridors) to average at least one tree per 20 feet of frontage.
- f. In all cases, the preservation and planting of understory and canopy trees that are appropriate for the setting shall be required. The preservation or planting of undesirable underbrush, understory trees, and canopy trees, including those that are in poor condition or considered invasive exotic species, is discouraged. The removal of such undesirable vegetation must be approved prior to removal and is subject to tree planting requirements for significant breaks or gaps along designated Scenic Corridors.

Scenic Corridor 2

- a. Except as otherwise provided for in this Ordinance, there shall be no removal of canopy and understory trees within the first 20 feet along a Scenic Corridor 2. The only development allowed within the first 20 feet behind the road right-of-way shall be a sign, landscaping, necessary utilities (i.e., electrical, water, sewer, communications), and driveway access, including necessary clearing to obtain sight distance and vision clearance, regardless of any buffering requirements of the Lexington County Zoning Ordinance. Utility access shall be designed to provide the least intensive impacts on the existing scenic corridor vegetation and should utilize existing rights-of-way and easements, where feasible.
- b. Where the imposition of a 20-foot zone represents greater than 20 percent of the area of a parcel, as platted prior to the enactment date of this Ordinance, the scenic zone may be reduced from 20 feet to 20 percent of the parcel area.
- c. Where there is a significant break or gap in an existing tree canopy along an identified Scenic Corridor 2, the Landscape Administrator shall require that the first 20 feet be preserved in as natural a condition as possible with an opportunity for the area to re-vegetate naturally in a manner similar to other portions of the corridor. Where there are no substantial trees in this area, the Landscape Administrator may require street frontage trees (as required in Article 3, Section 6 Road Corridors) to average at least one tree per 20 feet of frontage.
- d. In all cases, the preservation and planting of understory and canopy trees that are appropriate for the setting shall be required. The preservation or planting of

undesirable underbrush, understory trees, and canopy trees, including those that are in poor condition or considered invasive exotic species, is discouraged. The removal of such undesirable vegetation must be approved prior to removal and is subject to tree planting requirements for significant breaks or gaps along designated Scenic Corridors.

Scenic Corridor 3

- a. Except as otherwise provided for in this Ordinance, there shall be no removal of canopy and understory trees along a Scenic Corridor 3 that may serve as quality street frontage trees in accordance with Article 3, Section 6 Road Corridors. The only development allowed within the first 10 feet behind the road right-of-way shall be a sign, landscaping, necessary utilities (i.e., electrical, water, sewer, communications), and driveway access, including necessary clearing to obtain sight distance and vision clearance, regardless of any buffering requirements of the Lexington County Zoning Ordinance. Utility access shall be designed to provide the least intensive impacts on the existing scenic corridor vegetation and should utilize existing rights-of-way and easements, where feasible.
- b. Where there is a significant break or gap in an existing tree canopy along an identified Scenic Corridor 3, the Landscape Administrator shall require the street frontage trees (as required in Article 3, Section 6 Road Corridors) to average at least one tree per 20 feet of frontage.
- c. In all cases, the preservation and planting of understory and canopy trees that are appropriate for the setting shall be required. The preservation or planting of undesirable understory and canopy trees is discouraged.

3.7.6 Fencing

Fencing utilized for activities along scenic corridors shall be decorative in nature. If cyclone fencing is necessary, it must be vinyl coated and in a color that provides the least visual impact to the surrounding environment.

3.7.7 Signs and Entranceways

Proper preservation of scenic corridors is compatible with the economic feasibility and visibility of development. The placement of signs and entranceways along a scenic corridor shall be designed in such a manner as to minimize the impact on preserved trees, but shall comply with all placement requirements of the Lexington County Zoning Ordinance.

3.7.8 Additional Zoning Requirements

Where there is a scenic corridor designation, additional restrictions are contained in the Lexington County Zoning Ordinance.

Article 4 – Open Space Requirements

Improving the quality of all development activities, whether residential or nonresidential, contributes to the general welfare, prosperity, and pride of the County; and if the preservation of open space is involved, there is the opportunity to mitigate potential environmental damage and promote a healthier and more livable community.

The following open space requirements are established in order to preserve and enhance existing vistas; improve appearance; offset the environmental impact of large expanses of impervious surfaces; improve ground water recharge; and promote adequate light, air, and open space for the residents of and visitors to Lexington County.

It is the intent of this article to encourage creativity in layout design by being as flexible as possible in the application of open space standards.

4.1 Residential Subdivisions

The purpose of this section is to provide guidelines for the establishment of suitable and useable open space within proposed residential subdivisions. Required open space shall be permanently protected and/or maintained and may be modified only after approval from the Landscape Administrator. Residential subdivisions that have less than 10 lots or residential subdivisions with average residential lot sizes greater than 1.5 acres do not require open space.

4.1.1 Quantity of Open Space

At least 10 percent of the total gross land area of the subdivision shall be designated as open space. The following shall be counted toward this minimum open space requirement provided they are actually set aside on property separate from the subdivision parcels, otherwise listed in this Article:

- a. Natural features (riparian areas, wetlands, natural ponds, streams, wildlife corridors, steep slopes, etc.), natural hazard areas (floodplains, floodways, etc.), stormwater features (drainage channels, ditches, ponds, water quality buffers, etc.), and land area occupied by Low Impact Development (LID) stormwater devices;
- b. Land designated as open space as a result of the Scenic Corridor Section of this Ordinance;
- c. Land occupied by active and passive recreational uses such as pools, playgrounds, tennis courts, jogging trails, ball fields, and clubhouses used

primarily for recreation purposes. However, this category of open space can only encompass up to 50 percent of the required open space;

- d. Land occupied by landscaped buffers or landscaped common areas; and,
- e. Land occupied by golf courses.

Water quality buffers, as defined and required by the Lexington County Land Development Manual, and Low Impact Development (LID) stormwater features that occur within individual residential lots or within designated road rights-of-way, shall also be counted toward meeting the required 10 percent open space requirement.

4.1.2 Trophy Tree Protection and Mitigation

In the event that existing trophy trees are removed for the development of a residential subdivision that requires open space, additional tree plantings equivalent to one new canopy tree per every 10 inches of D.B.H of the trophy tree to be removed, shall be installed within designated open space or landscaped areas within the development, in addition to other landscaping and/or tree planting requirements. The protection of other existing, quality trees may also be considered when determining trophy tree replacement requirements. Trophy trees removed without prior approval shall be replaced with an adequate number of canopy trees, as determined by the Landscape Administrator.

Any trophy tree that has been determined by the Landscape Administrator as being hazardous, in poor condition or health, an invasively exotic species, or otherwise deemed inappropriate for the site may be removed without penalty.

4.1.3 Location

Where relevant and appropriate, open space shall be located so as to be readily accessible and useable by the residents. If possible, a portion of the open space should provide a focal point(s) for the subdivision, preferably at the entrance.

On Scenic Corridor 1s, at least the first 25 feet from the road right-of-way shall be designated as open space. On Scenic Corridor 2s and 3s with at least 66 feet of right-of-way, at least the first 15 feet from that right-of-way shall be designated as open space. On Scenic Corridor 2s and 3s with only 50 feet of right-of-way, at least the first 20 feet from that right-of-way shall be designated as open space. Utility access shall be designed to provide the least intensive impacts on the existing scenic corridor vegetation and should utilize existing rights-of-way and easements for such utility, where possible. Open space designated for scenic corridors may be platted separately as common area or included within a landscape easement, provided the developer provides documentation regarding preservation and maintenance of such easements.

4.1.4 Configuration

The open space shall use contiguous and compact design elements where possible. These spaces, where applicable, should be interconnected with trail systems, buffer areas, scenic corridors, natural features, or as a portion of the stormwater management system.

Where open areas, trails, parks, or other public spaces are planned or exist adjacent to or within the subdivision, the open space shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the existing area.

To the maximum extent practicable, the open space should be located and organized to include, protect, and/or enhance as many of the following open areas and features as possible:

1. Natural features (riparian areas, wetlands, natural ponds, streams, wildlife corridors, steep slopes, etc.), natural hazard areas (floodplains, floodways, etc.), stormwater features (drainage channels, ditches, ponds, water quality buffers, etc.), and land area occupied by Low Impact Development (LID) stormwater management devices;
2. Areas containing groupings of mature trees, groupings of younger trees with the potential to develop into a forest ecosystem, and trophy trees as defined within this Ordinance.
3. Landscaped buffers or visual transitions between different types or intensities of uses; and,
4. Habitat and corridors for wildlife species.

Where the open space is adjacent to a scenic corridor it may be cleared of existing understory and canopy trees only if there is an extensive landscaping plan for that area, to include an average of one canopy tree, two understory trees, or an equivalent combination of both per 20 feet of scenic corridor street frontage, and shrubbery. Significant breaks or gaps in an existing tree canopy along an identified scenic corridor shall also conform to these minimum tree planting requirements.

4.1.5 Access

Open space not contained within a residential lot or right-of-way shall either front on the road right-of-way within the subdivision or shall have a minimum 20-foot dedicated right-of-way or easement between lots or along property lines to the open space. This access area shall be counted toward this minimum open space requirement.

Motorized vehicles or equipment shall not be allowed access to the designated open space, unless necessary for routine maintenance.

4.2 Golf Courses

The purpose of this section is to provide guidelines for the establishment of suitable and useable open space within the layout of golf courses, to be utilized only in the event the golf course is abandoned as an activity at some point in time.

4.2.1 Quantity of Open Space

A buffer strip of open space at least 100 feet wide shall be established in each of the required locations.

4.2.2 Location

The open space shall be required to be established where residential uses are a part of the development that contains the golf course and where those uses adjoin the fairways that are part of the golf course portion of the development. The designated buffer strip shall extend along the entire length of the residential property line that adjoins the fairways. This shall include all residential lots regardless of whether the lot contains a house.

Where there is a larger tract of land containing a house adjoining the fairways of the golf course the following shall apply. The residential activity (generally the building footprint) that is more than 300 feet from this property line does not qualify for this open space amenity, and a residential activity that is within 300 feet of, but more than 150 feet from, the golf course qualifies for an open space buffer of 50 feet.

4.2.3 Access

This open space shall either front on a road right-of-way or shall have a minimum 20-foot dedicated right-of-way or easement which extends to a road.

Motorized vehicles other than golf carts, shall not be allowed access to this designated open space, unless necessary for routine maintenance.

4.2.4 Use of Open Space

This open space is being required as a buffer area and shall be used for no activities more intense than passive recreation. If there is golf course property not included in this open space requirement which is accessible only through the buffer area, then a single access point will be allowed as long as that access follows the shortest route possible and comes no closer than 50 feet to any existing residential property lines.

Article 5 – Nonconformity

5.1 Purpose

The purpose of this article is to control, improve, or terminate activities which do not conform to one or more provisions of this Ordinance. If an activity was legally established with all required local, state, and federal land use permits and approvals, yet does not currently conform to one or more provisions of this Ordinance, it may qualify as a legal nonconformity.

5.2 Right to Continue a Nonconformity

A legal nonconformity may be continued without compliance with this Ordinance if the degree of nonconformity is not increased. This means that modifications, enlargements, expansions, extensions, substitutions, paving/graveling, re-development, or other changes in the nonconforming activities or facilities must comply with the provisions of this Ordinance as follows:

Any building enlargements, expansion of parking facilities, and other expansions of use must meet the applicable sections of this Ordinance, for the expansion or enlargement only.

Any substituted use that must meet greater buffering restrictions under the Lexington County Zoning Ordinance than the legal nonconformity will be required to meet the requirements of Article 3 where deemed feasible by the Landscape Administrator.

Any conversion of a natural or grassed parking area to an impervious surface or gravel-type surface must meet the requirements of Article 3, Section 3 Parking Lots.

Any expansion or enlargement exceeding 25 percent of the overall developed or utilized area of a nonconformity or the reconstruction of a nonconformity must meet all applicable landscaping requirements of Article 3, where deemed feasible by the Landscape Administrator.

Any nonconforming activity that has been abandoned or closed for a continuous period of 12 months must meet all applicable landscaping requirements of Article 3, where deemed feasible by the Landscape Administrator, before it can be reestablished.

The redevelopment of nonconforming activities must meet all applicable provisions of this Ordinance.

5.3 Required Conformance of Legal Nonconformities

All properly permitted activities which are nonconforming as of the date of the implementation of this Ordinance shall be allowed to remain as developed.

5.4 Required Conformance of Modified Legal Nonconformities

All required landscaping for nonconforming activities must meet the provisions of Section 6.1.3 of this Ordinance. The Landscape Administrator may elect to allow additional time to complete the required landscaping for nonconforming activities.

Article 6 – Administration

Section 1. General Provisions

6.1.1 Landscape Administrator

The administration and enforcement of this Ordinance shall be the responsibility of the Lexington County Landscape Administrator.

a. Duties:

1. Administer and enforce all applicable provisions of this Ordinance.
2. Administer and enforce the actions of the Board of Zoning Appeals as related to this Ordinance.
3. Attend all meetings of the Board of Zoning Appeals related to this Ordinance.
4. Maintain current and permanent records relative to the adoption, amendment, administration, and enforcement of this Ordinance.
5. Provide information to the public on all matters relating to this Ordinance.

b. The Landscape Administrator, or persons engaged by him to perform tests or any other duties, may enter upon any land within the jurisdiction of this Ordinance and make examinations and surveys. They may also place or remove public notices as required by these regulations. However, there shall be no right of entry into any building without the consent of the owner.

c. The Landscape Administrator has the discretion to arbitrate required species diversity, quantities, spacing, or setback requirements listed within Article 3 for situations involving utility locations and easements, developments with small quantities of required tree plantings, or to insure landscape plans are designed in an aesthetically pleasing manner (i.e., consistency/evenness with plantings). No more than 10 percent relief may be granted by the Landscape Administrator for these circumstances.

6.1.2 Site Plan Review

Buildings, structures, or activities within the unincorporated area of the County which fall under the provisions of this Ordinance must submit a site plan for review and approval prior to construction or development. The site plan should include information and exhibits as deemed necessary to determine that the proposed development of the property complies with this Ordinance. The Landscape Administrator may alter those requirements in order to avoid the submission of either unnecessary or inadequate information.

6.1.3 Compliance

No building, structure, or activity for which a landscape review shall be completed shall be used or occupied until the Landscape Administrator has indicated that compliance has been made with all applicable provisions of this Ordinance and a valid landscape permit has been issued. The Landscape Administrator may allow required landscaping to be installed in the fall or winter months in order to achieve optimal plant survival. During final landscape compliance inspections, additional plantings may be required to offset inadequate sizes and/or quantities of trees or plant materials that have been installed.

6.1.4 Fees

A fee established by County Council shall be assessed for every permit application reviewed for compliance with the provisions of this Ordinance. This fee shall be paid to Lexington County before or upon the issuance of any landscape permit, except when deemed unnecessary by the Landscape Administrator for purposes of enforcement of this Ordinance.

Section 2. Variances and Appeals

- 6.2.1** The Lexington County Board of Zoning Appeals shall serve as the appeal body for any variance requests or appeals sought under the provisions of this Ordinance.
- 6.2.2** A written application for a variance or appeal shall be filed with the Landscape Administrator by the property owner or his designated agent or the aggrieved party. Copies of the application shall be transmitted to members of the Board. A fee established by County Council shall accompany every application.
- 6.2.3** Procedures governing the Board of Zoning Appeals shall be as determined in the Lexington County Zoning Ordinance.
- 6.2.4** The County shall have the option of having its own independent expert(s) review materials submitted by the applicant and advise the Board in its deliberations.

Section 3. Amendments

6.3.1 Purpose

The Lexington County Council may, from time to time, amend the text of this Ordinance in the manner set forth below, where it is alleged that there was an error in the original Landscape Ordinance, where conditions have changed so as to warrant a change in landscape requirements, or where on the opinion of the Lexington County Council, such change shall serve to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of Lexington County.

6.3.2 Procedures

Amendments to this Ordinance may be proposed by the Lexington County Council or the Lexington County Planning Commission.

- a. An application for amendment shall be filed with the Landscape Administrator.
- b. These regulations may be amended after notice and public hearing in the same manner as prescribed by law for their original adoption.

6.3.3 Extent of Amendment Granted

The County Council may grant a more restrictive landscape amendment, but not a less restrictive amendment, than formally requested by the applicant.

6.3.4 Enactment

Upon enactment of an amendment by County Council, the Landscape Administrator shall immediately cause said amendment to be inserted into the text of the Ordinance.

Section 4. Enforcement

6.4.1 Violations

Wherever the Landscape Administrator, or his authorized representatives, and/or those who are authorized by County Council, finds a violation of this Ordinance, he shall direct compliance as he deems necessary, to include the issuance of verbal and/or written compliance orders or the posting of the subject property and/or structure. Additional enforcement actions may include the following:

- a. The revocation of any site plan approvals issued;
- b. The withholding of any related permits, plats, inspections, or other permissions, approvals, or privileges authorized by any County ordinances; or
- c. Redress through legal action as described in the following section.

6.4.2 Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person, firm, or corporation who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than the maximum allowable penalty under the jurisdiction of the Magistrate's Court. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided for herein.

Notice of violation shall be sufficient if directed to the owner or the agent of the owner and left at his known place of residence or place of business.

The Landscape Administrator or other appropriate County official may also seek injunctive relief or any other appropriate action in courts of competent jurisdiction to enforce the provisions of this Ordinance.

6.4.3 Liability

Any Board member, the Landscape Administrator, or other employee charged with the enforcement of this Ordinance, acting for Lexington County in the discharge of his duties, shall not thereby render himself liable personally. He is hereby relieved from all personal liability and shall be held harmless by Lexington County of any damage that may accrue to persons or property as a result of any act required or permitted in the proper discharge of his duties. Any suit brought against a Board member, the Landscape Administrator, or employee charged with the enforcement of this Ordinance because of such act performed by him in the enforcement of any provision of this Ordinance shall be

defended by legal representatives furnished by Lexington County until the final termination of such proceedings.

Section 5. Legal Status

6.5.1 Conflict with Other Laws

Whenever the provisions of the Ordinance impose regulations that are in conflict with those of other County ordinances, other governmental agencies, or privately executed restriction, the more restrictive regulations shall apply. The same shall be true if there is a conflict between provisions within the body of this Ordinance.

6.5.2 Separability

Should any article, section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any other article, section, clause, or provision of this Ordinance.

Appendix

This Landscape and Open Space Ordinance was created by Lexington County with a focus on the preservation or planting of trees for shade, erosion control, and transition between land uses, while balancing the needs and demands of a quickly developing community.

The selection of trees to be planted to meet the specific requirements of this Ordinance should be limited to native species, in order to help assure hardy and mature growth. In order to limit the potential for maintenance problems and poor growth, hybrids, non-native species, and aggressive or invasive species should be avoided, as well as species outside their normal range.

Trophy Trees

The Ordinance describes the category of trophy trees as those trees that are significant by their size and type and as such should be preserved wherever possible. Guidelines detailed within the Ordinance address the circumstances in which preservation of trophy trees is not feasible. The specifications for determining trophy trees are as follows:

Canopy Trees, except: Sweetgum Yellow-Poplar Pine Sugar and Hackberry Ash	>24" D.B.H.
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The specifications for trophy trees may be revised by staff upon direction by Lexington County Council as part of a regularly scheduled meeting.

Prohibited Tree Species

The Ordinance disallows the planting and use of invasive exotic tree species, identified by the Clemson University Cooperative Extension Service or the United States Department of Agriculture as severe or significant threats.

Scenic Corridors

The Scenic Corridor designation can only apply to roads that are located in the portions of Lexington County where the provisions of Article 3, Section 7, of the Landscape and Open Space Ordinance apply. The following are the roadways which are designated as Scenic Corridors in accordance with Article 3, Section 7. Scenic corridors may be removed from or added to this list upon a recommendation of the Planning Commission and approval of County Council at any scheduled meeting. All cited intersections, as well as measured locations, refer to the mapped centerlines of the named roads.

Scenic Corridor 1s

- Arterials: Bradley Drive
Bush River Road (from Langsdale Road to the CSX Railroad spur)
Corley Mill Road (from Mountain Laurel Court to within 500 feet of North Lake Drive)
Cromer Road (from English Drive to Oak Drive)
Wildlife Road (from Barr Road to Norfolk Southern Railroad)
- Collectors: Andrew Corley Road (from Corley Mill Road to the ID line near North Lake Drive)
Barr Road (from Wildlife Road to Pisgah Church Road)
Cromer Road (from Oak Drive to Mineral Springs Road)
Hope Ferry Road (from Corley Mill Road to the ID line near Sunset Boulevard)
Midway Road
Mill Stream Road
Old State Road (from I-77 to Old Wire Road)
Saint Davids Church Road (from Bradley Drive to Kitti Wake Drive)
- Locals: Old State Road (south of Old Wire Road)

Scenic Corridor 2s

- Arterials: Barr Road (from Hendrix Street to Wildlife Road)
Bush River Road (from the CSX Railroad spur to St. Andrews Road)
Calks Ferry Road (from Augusta Highway to Spring Hill Road)
Calks Ferry Road (from Triangle Road to I-20)
Emanuel Church Road (from Kitti Wake Drive to the westernmost intersection with Pinestraw Circle)
Longs Pond Road (from Muddy Springs Road to Nazareth Road)
Nazareth Road (from South Lake Drive to Steele Pond Road)
North Lake Drive (from Lincreek Drive to the County Line)
Oak Drive (from Cromer Road to Mineral Springs Road)
Pisgah Church Road (from Hounds Run Drive to Barr Road)
- Collectors: Amicks Ferry Road
Beechcreek Road
Beechwoods Drive (from the ID line to Old Cherokee Road)

Berl Mar Road
 Cedar Road (from Mineral Springs Road to within 1600 feet of Augusta Road)
 Cedar Grove Road (from Lewie Road to the ID line along Highway #378)
 Coldstream Drive
 Collins Drive
 Dreher Island Road
 Fox Branch Road
 Hebron Drive (from the ID line near Sunset Boulevard to the ID line on the east side
 of the road near Leaphart Road)
 Innsbruck Drive
 Irmo Drive
 Kitti Wake Drive (from Two Notch Road to Shirway Drive)
 Kyzer Road (from Nazareth Road to the ID line near Platt Springs Road)
 Long Pine Road
 Mineral Springs Road (from the ID line at Leaphart Road to the ID line on the west
 side of the road near Sunset Boulevard)
 Nursery Road (from Fork Avenue to Goldstone Drive)
 Old Chapin Road
 Old Cherokee Road
 Old Lexington Highway (Chapin)
 Peak Street
 Pilgrim Church Road (from the ID line to Old Cherokee Road)
 Rawl Road
 River Road
 Saint Peters Church Road (Chapin area)
 Saint Peters Road (from Wise Ferry Road to the ID line)
 Shirway Drive (from the ID line on the east side of the road near Two Notch Road to
 the ID line on the east side of the road near Old Barnwell Road)
 Shore Road (from Rembert Court to Shull Island Road)
 Sid Bickley Road (from Old Bush River Road to Old Lexington Highway)
 Smith Pond Road (from Calks Ferry Road to Norfolk Southern Railroad)
 Spool Wheel Road (RD portion)
 Spring Hill Road (from Calks Ferry to Saint Pauls Church Road)
 Spring Hill Road (from CE Harmon Lane to Gilbert town limits)
 Weed Drive (from North Lake Drive to Rawls Creek)
 Wessinger Road (from Old Bush River Road to Putnam Drive)
 Wise Ferry Road (from the ID line to Beechcreek Road)

Locals:

Amicks Ferry Road
 Beechcreek Road (from Old Cherokee Road to Wise Ferry Road)
 Catawba Trail
 Counts Ferry Road (from the ID line to the end of the road)
 Crockett Road
 Foxglen Road
 Murray Lindler Road (from Old Lexington Highway to Old Bush River Road)
 Nursery Road

Old Bush River Road (from Murray Lindler Road to Old Lexington Highway)
Old Bush River Road (from Sid Bickley Road to Wessinger Road)
Old Chapin Road
Old Cherokee Road
Park Road
Press Lindler Road
River Road
Rocky Point Drive
Shore Road
Shull Island Road
Wessinger Road (from Putnam Drive to Vernon Amick Road)
Westwoods Drive
Windward Point Road
Wise Ferry Road

Scenic Corridor 3s

Arterials: Augusta Highway
Augusta Road
Barr Road (from West Main Street to Hendrix Street)
Bush River Road (from Lake Murray Boulevard to Langsdale Road)
Calks Ferry Road (from Highway #378 to Spring Hill Road)
Calks Ferry Road (from Augusta Highway to Triangle Road)
Calks Ferry Road (from I-20 to Fairview Road)
Chapin Road
Charleston Highway (from Cayce city limits to I-26)
Charter Oak Road
Columbia Avenue (Chapin area)
Corley Mill Road (first 500 feet from North Lake Drive)
Corley Mill Road (from Mountain Laurel Court to Sunset Boulevard)
Cromer Road (from English Drive to Sunset Boulevard)
Edmund Highway (from South Congaree town limits to Airport Boulevard)
Edmund Highway (from South Congaree town limits to Pelion town limits)
Emanuel Church Road (from Kitt Wake Drive to West Dunbar Road)
Fairview Road
Highway #6 (from Edmund Highway to Swansea town limits)
Highway #178
Highway #378 (from West Main Street to Saluda County line)
Highway #321 (from Charleston Highway to Gaston town limits)
Lake Murray Boulevard
Leaphart Road
Nazareth Road (from Calks Ferry Road to Steele Pond Road)
North Lake Drive (from Lincreek Drive to Lake Murray Boulevard)
North Lake Drive (from Sunset Boulevard to the Lake Murray Dam spillway)
Old Barnwell Road (from Old Orangeburg Road to Springdale town limits)
Old Orangeburg Road

Peach Festival Road
Pine Street (from Pelion town limits to Aiken County)
Pine Street (from West Dunbar Road to South Congaree town limits)
Pisgah Church Road (from Augusta Highway to Hounds Run Drive)
Platt Springs Road
Pond Branch Road
Priceville Road
Saint Andrews Road (from Irmo town limits to Richland County)
Savannah Highway
South Lake Drive (from Lexington town limits to Edmund Highway)
Southbound Road
Sunset Boulevard
West Main Street (Lexington area)

Collectors: Andrew Corley Road (from North Lake Drive to the ID line)
Beechwoods Drive (from Highway #378 to the ID line)
Cedar Grove Road (from Augusta Highway to Lewie Road)
Cedar Grove Road (from Highway #378 to the ID line)
Hebron Drive (from the ID line to Sunset Boulevard)
Hope Ferry Road (from Sunset Boulevard to the ID line)
Kyzer Road (from Platt Springs Road to the ID line)
Murray Lindler Road (from Chapin Road to Old Lexington Highway)
Nursery Road (from Lake Murray Boulevard to Fork Avenue)
Old Barnwell Road (from South Lake Drive to Old Orangeburg Road)
Pilgrim Church Road (from North Lake Drive to the ID line)
Saint Peters Road (from Highway #378 to the ID line)
Shirway Road (from Old Barnwell Road to the ID line)
Shore Road (from Highway #378 to Rembert Court)
Sid Bickley Road (from Chapin Road to Old Bush River Road)
Spool Wheel Road (from Augusta Highway to the ID line)
Spool Wheel Road (from Highway #378 to the ID line)
Spring Hill Road (from Augusta Highway to CE Harmon Lane)
Spring Hill Road (from Augusta Highway to Saint Pauls Church Road)
Spring Hill Road (from Highway #378 to Calks Ferry Road)
Weed Drive (from Rawls Creek to Nursery Road)
Wessinger Road (from the County Line to Old Bush River Road)
Wise Ferry Road (from Augusta Highway to the ID line north of Highway #378)

Locals: Counts Ferry Road (from Highway #378 to the ID line)
Muddy Springs Road